IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 11TH DECEMBER 2006 / 20TH AGRAHAYANA 1928

WA.No. 2072 of 2006()

{IN W.P.(C)NO.19150/2006 OF THIS COURT}
.....

APPELLANT:/PETITIONER:

K.R.UDAYA KUMAR,
AGED 63 YEARS, SON OF RAMAVARMA,
FORMER PRINCIPAL, GOVERNMENT POLYTECHNIC,
NEYYATTINKARA, RESIDING AT A.K.BHAVAN,
PACHALLOOR, THIRUVANANTHAPURAM.

BY ADV. SRI.K.L.NARASIMHAN
SRI.A.MOHAMMED FAIZAL

RESPONDENTS/RESPONDENTS:
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1. STATE OF KERALA,
REP. BY ITS SECRETARY,
HIGHER EDUCATION DEPARTMENT,
GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM.

2. DIRECTOR OF TECHNICAL EDUCATION,
OFFICE OF THE DIRECTOR OF TECHNICAL EDUCATION,
THIRUVANANTHAPURAM.

BY GOVT. PLEADER SRI.SANDESH RAJA

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 11/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.A.ABDUL GAFOOR &
K.R.UDAYABHANU, JJ.

W.A.No.2072 of 2006

Dated this the 11th day of December, 2006.

JUDGMENT

Abdul Gafoor, J.

Even going by the case of the writ petitioner/appellant, three vacancies had arisen before his retirement on 31.5.1999 in the category of Joint Director. But, it is an admitted case that those vacancies had never been filled up and that none of his junior has been promoted. In such circumstances, there arises no question of infraction of his right under Article 16 of the Constitution of India, at any point of time. Merely because there were vacancies, one does not acquire a right to be promoted. Only when the appointing authority intends to fill it up, the necessity to fill it up with the eligible incumbent arises.

Therefore, we find no reason to interfere with the finding of the learned single Judge. Writ appeal fails, dismissed.

Sd/-
(K.A.ABDUL GAFOOR)
JUDGE

Sd/-
(K.R.UDAYABHANU)
JUDGE

sk/

//true copy//

P.S. To Judge.

K.A.ABDUL GAFOOR &
K.R.UDAYABHANU, JJ.

W.A.No.2072 of 2006

JUDGMENT

11th December, 2006.